

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

UNITED STEELWORKERS OF AMERICA,
AFL-CIO, CLC

Employer

and

UNITED STEELWORKERS OF AMERICA,
LOCAL UNION NO. 4108

Petitioner

Case 18-RC-16593

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to me.

Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

¹ The Employer, United Steelworkers of America, AFL-CIO, CLC, is an unincorporated labor organization with its office and principal place of business located in Pittsburgh, Pennsylvania. The Employer has branch offices located throughout the United States, where it is engaged in representing employees for the purpose of collective bargaining in the basic steel, can, aluminum and

3. The labor organization involved claims to represent certain employees of the Employer.

4. Petitioner seeks to represent a unit of all casual organizing and research employees employed by the Employer at its District 11, Minneapolis, Minnesota office, excluding all other employees, including those currently represented by other labor organizations. Contrary to Petitioner, the Employer contends that Petitioner does not have the capacity to represent the Employer's employees because of a conflict of interest created by Petitioner's relationship with the Employer. The Employer also contends that the unit sought by Petitioner is inappropriate, and should include all casual employees employed in or out of all of the Employer's offices within the Employer's geographical area known as District 11. Finally, the Employer disagrees with Petitioner regarding the unit placement of Marty Demgen, who Petitioner contends is in the unit.

The Employer, United Steelworkers of America, AFL-CIO, CLC, has its main office in Pittsburgh, Pennsylvania. The Employer has other offices located throughout the United States. The Employer is a labor organization and represents employees for the purpose of collective bargaining. District 11 of the Employer is a region consisting of the northwest quadrant of the United States, and includes 13 states. District 11 is headquartered in Minneapolis, Minnesota. There are a total of nine districts in the United States and three districts in Canada. Employees employed in or out of the

related industries. During the past 12 months, a representative period, the Employer has purchased and received materials and services valued in excess of \$50,000, which were shipped to its Pittsburgh facility directly from points located outside the State of Pennsylvania. During the same period of time, the Employer received gross revenue from the performance of its services in excess of \$1,000,000.

District 11 office are employees of the Employer, and not of District 11. Petitioner is a local union of the Employer. It represents the production and maintenance employees at LTV Steel Mining Company. Petitioner's offices are in Aurora, Minnesota.

The Employer contends that Petitioner has a conflict of interest sufficient to preclude Petitioner from representing the Employer's employees. In support of its contention, the Employer presented un rebutted evidence that: (1) Petitioner is a local chartered by the Employer; (2) The Employer has the authority under its Constitution to revoke Petitioner's charter and to place Petitioner under administratorship; (3) Petitioner must seek authorization from the District 11 director and president of the Employer to call a strike of its members, and failure to do so results in no strike benefits or assistance with defense of the strike and could lead the Employer to place Petitioner under administratorship; (4) Both the District 11 director and president for the Employer must sign off on contracts negotiated by any staff employed by the Employer, including the employees sought by Petitioner in the instant petition; and (5) The Employer (not its locals) is the contracting party for all collective-bargaining agreements negotiated in District 11. Thus, if Petitioner negotiated a contract with the Employer on behalf of the employees in the petitioned-for unit, it must be approved and signed by the District 11 director and president of the Employer as agents of Petitioner. If Petitioner decided to call employees of the petitioned-for unit on strike, that action would require approval by the District 11 director and president of the Employer, or no strike benefits would be provided and the Employer could put Petitioner under administratorship. Finally, Petitioner could not even be the contracting party for any contract it negotiated for

employees in the petitioned-for unit; instead the contracting party for the unit would be the Employer, contracting with itself.

In these circumstances, it is clear that Petitioner is not competent to bargain concerning the terms and conditions of employment for the unit employees it seeks. There is no question that Petitioner has not only direct and immediate allegiances that conflict with its function of protecting and advancing the interests of the employees it seeks to represent, but also, in certain circumstances, Petitioner cannot even function as a collective-bargaining agent absent the approval of the Employer officers.²

Centerville Clinics, Inc., 181 NLRB 135, 139-140 (1970); Welfare and Pension Funds, 178 NLRB 14 (1969). See also Int'l. Assn. of Bridge, Iron Workers, 211 NLRB 1010 (1974).

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.³

² One of Petitioner's arguments is that a different local of the Employer currently represents the Employer's secretaries. However, whether a conflict of interest exists in this case is determined by the evidence in this case, and what other representation may occur is irrelevant to this case.

Because of my determination that Petitioner does not have the capacity to represent the Employer's employees, I find it unnecessary to decide the unit issue or unit status of the individual in dispute.

³ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **January 28, 2000**.

Signed at Minneapolis, Minnesota, this 14th day of January, 2000.

/s/ Marlin O. Osthus

Marlin O. Osthus, Acting Regional Director
Eighteenth Region
National Labor Relations Board

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